IN THE HIGH COURT OF JUDICATURE ANDHRA PRADESH
AT HYDERABAD

TUESDAY THE TENTH DAY OF APRIL
TWO THOUSAND AND TWELVE

PRESENT

THE HONOURABLE SRI JUSTICE R. KANTHA RAO

CMA.NO. 3465, 3485 & 3466 of 2003

Between: CMA.No. 3465 of 2003.

United India Insurance Company Ltd.
Ramgundam, Karimnagar district. … Appellant

V/s.

Mogili Thirupathi & Anr. … Respondents-

Between: CMA.No. 3485 of 2003

United India Insurance Company Ltd.
Ramgundam, Karimnagar district. … Appellant

V/s.

Kuthadi Srinivas @ Srinivasulu & Anr. … Respondents

Between: CMA.No. 3466 of 2003

United India Insurance Company Ltd.
Ramgundam, Karimnagar district. … Appellant

V.s,

Kuthadi Srinivas & Anr. … Respondents

Counsel for the Appellants : Sri T. Ramulu

Counsel for the Respondents : Sri Shankar Bheemanathi

The court made the following :(Common judgment follows next page)

THE HONOURABLE SRI JUSTICE R. KANTHA RAO

CMA.Nos. 3465, 3485 & 3466 of 2003

COMMON JUDGMENT :

CMA.No. 3465 of 2003 is filed by the United India Insurance Company against the award and decree dated 18-11-2002 passed by the Motor Accident Claims Tribunal-cum-III-Additional District Judge, Karimnagar in OP.No, 304 of 2001.

CMA.No. 3485 of 2003 is filed by the United India Insurance Company against the award and decree dated 18-11-2002 passed by the Motor Accident Claims Tribunal-cum-III-Additional District Judge, Karimnagar in OP.No, 303 of 2001.

CMA.No. 3465 of 2003 is filed by the United India Insurance Company against the award and decree dated 18-11-2002 passed by the Motor Accident Claims Tribunal-cum-III-Additional District Judge, Karimnagar in OP.No, 305 of 2001.

2. In the above three appeals, the Insurance Company challenged its liability to pay compensation to the claimants and also the quantum of compensation on the ground that it is on higher side.

3. The brief facts of the case are that the respondents-claimants

engaged the lorry bearing No.AP-36-T-6129 belonging to the second respondent, which was insured with the appellant-Insurance company for the purpose offloading and unloading the pigs. They loaded 80 farm pigs in the said lorry on 16-09-1999 at Karimnagar to go to Madikeri of Karnataka State. The claimants in CMA.No.3465 and 3466 of 2003 are said to be owners of the pigs. Whereas the claimants in CMA.No. 3485 of 2003 were said to be coolies for loading and unloading the pigs. The lorry while on its way to Madikera in Karnataka State reached Gooty of Ananthapur cross roads on National Highway No.7, on account of the rash and negligent driving of its driver, went off the road and turned turtle. The claimants, who are traveling in the said lorry received injuries. All the claimants filed the claim petitions before the Claims Tribunal under section 166 of the Motor Vehicles Act. The claimants in CMA.No. 3465 of 2003 claimed an amount of Rs.80,000=00 against which the learned Claims Tribunal passed an award for an amount of Rs.21,000=00 after making enquiry. Whereas the claimants in CMA.No.3485 of 2003 claimed Rs.2,00,000=00 each. The learned Claims Tribunal passed an award for an amount of Rs.75,000=00. Whereas the claimants in CMA.No. 3466 of 2003 claimed an amount of Rs.1,50,000=00, against which the learned Claims Tribunal awarded an amount of Rs.35,000=00. In all the cases, the learned Claims Tribunal granted interest @ 9% per annum from the date of award till the date of realization.

4. It is significant to note that RW-1 a witness examined on behalf

of the appellant-Insurance company stated in his evidence that as per Ex.B-1 Insurance policy the vehicle can carry goods alongwith the owner but six persons were permitted to travel in the said vehicle and also that in respect of the damages for the third party risk, the liability of the Insurance Company is unlimited. He also admitted that out of the three claimants two are owners of the pigs and other claimant is engaged by them as cooli for loading and unloading the pigs and their risk was covered under the policy. In view of the categorical admission made by RW-1 it is no longer open for the appellant-Insurance Company to contend that the risk of the claimants is not covered under Ex.B-1 Insurance policy or under the provisions of the Motor Vehicles Act. Therefore, the contention of the appellant-Insurance Company that it is not liable to pay compensation to the claimants is rejected.

5. Next aspect is about the determination of quantum of compensation. In CMA.No. 3465 of 2003, the claimant claimed compensation of Rs.80,000=00 against which the learned Claims Tribunal awarded compensation of Rs.21,000=00 together with costs and interest @ 9% per annum from the date of petition till the date of realization. The learned Claims Tribunal considering Ex.A-3 injury certificate awarded compensation of Rs.12,000=00 for the simple injuries sustained by the claimants and an amount of Rs.3,000=00 towards medical expenses. The learned Claims Tribunal also having gone through Ex.A-5 FIR and Ex.A6 charge sheet that four pigs belonging to the claimants died, awarded

compensation of Rs.6,0000=00 for the loss of four pigs. In all the Claims Tribunal granted compensation of Rs.21,000=00 to the claimant which being just and reasonable, needs no interference. However, the interest granted @ 9% per annum being on higher side is reduced to 7.5% per annum from the date of petition till the date of realization.

6. In CMA.No. 3466 of 2003, the claimant who was examined as PW-01 deposed before the learned Claims Tribunal that in the accident he sustained fracture to the right leg. Soonafter the accident he was shifted to Government Hospital, Kurnool and from there he was removed to NIMs Hyderabad. Subsequently he was admitted in Surya Hospital, Karimnagar and was treated there. According to him, he was bed ridden for forty days, as he sustained fracture to the right leg in the accident. Though he claimed to have sustained permanent disability, he could not be able to adduce any evidence to prove the permanent disability. Upon perusing Ex.A3 injury certificate, the Claims Tribunal noticed that the claimant received the following injuries.

(i) lacerated injury on the left foot

(ii) Tenderness to the right leg;

The learned Claims Tribunal also noticed that X-ray report revealed that his right leg was fractured and fracture of left ankle which injuries was considered to be grievous in nature. The learned Claims Tribunal also considering Exs.A-3, A-5, A-6 and A-7 found that the claimant was subjected to prolonged treatment. Considering all these factors, the learned Claims Tribunal granted compensation of Rs.25,000=00 for injuries sustained by the claimant. Rs.10,000=00 towards medical expenses and in all Rs.35,000=00 was granted. The amount awarded by the learned Claims Tribunal as compensation being just and reasonable, needs no interference in this appeal. However, the interest granted @ 9% per annum being on

higher side is reduced to 7.5 % per annum from the date of petition till the date of realization.

7. In CMA.No. 3485 of 2003 as per the evidence of PW-1-injured, he received grievous injuries on his head and right side of ear, right hand and fingers of right hand. He sustained multiple injuries, some of which are grievous in nature. Initially he was admitted in Govt.Hospital and from there he was referred to Govt.Civil Hospital, Kurnool and from there he was referred to NIMs, Hyderabad. An operation was conducted for the fracture of spinal bone, steel rods were inserted in the leg. He also further deposed before the learned Claims Tribunal that an operation was performed to set right the fracture, which he sustained to the right hip joint and skin grafting was done for the fracture sustained to the fingers. He also further deposed that subsequent to his discharge from Hospital he attended the hospital for the plastic surgery and physiotherapy. According to him, he sustained permanent disability and he is not able to walk freely and he incurred expenditure of Rs. 61,000=00 for his treatment. Though he did not produce any evidence by examining the doctor, the learned Claims Tribunal considering Ex.A-2 certified copy of the injury certificate, Ex.A-3 discharge card of NIMs, Ex.A-4 out-patient ticket, Ex.A-5 medical bills, Ex.A-6 medical prescriptions 18 in number and Ex.A-7 attested copy of charge sheet awarded compensation to the claimant. The learned Claims Tribunal upon perusing Ex.A-2 injury certificate noticed the following injuries sustained by the claimant.

(i) tenderness on the upper arm

(ii) lacerated injury on the right forearm on the lateral side

(iii) lacerated injury on the left axilla

(iv) lacerated injury on the upper arm

(v) lacerated injury on right three fingers i.e., index finger, middle finger and right finger.

(vi) acerated injury on the skull skin deep.

The learned Claims Tribunal also found from the x-ray reports that there is fracture of 7th and 8th left ribs and left arm fracture. Considering all the above said injuries and the kind of treatment the patient undergone, which was born out from the medical record, the learned Claims Tribunal awarded Rs.75,000=00 as compensation which being just and reasonable. This Court is not inclined to interfere with the quantum of compensation arrived at by the learned Claims Tribunal. However, the interest granted @ 9% per annum being on higher side is reduced to 7.5% per annum from the date of filing the claim petition till the date of realization.

8. Consequently, the findings recorded by the learned Claims Tribunal that the appellant-Insurance Company is liable to pay compensation to the claimants and also the quantum of compensation granted by the learned Claims Tribunal in each case are confirmed. The interest granted @ 9% per annum is reduced to 7.5% per annum from the date of filing the claim petition till the date of realization in each case. The appeals filed by the Insurance Company are therefore partly allowed. There shall be no order as to costs.

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JUSTICE R. KANTHA RAO.

10-04-2012
I s L

THE HONOURABLE SRI JUSTICE R. KANTHA RAO

CMA.Nos. 3465, 3485 & 3466 of 2003

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